

**IN THE U.S. DISTRICT COURT FOR MARYLAND,
SOUTHERN DIVISION**

BEYOND SYSTEMS, INC.)
)
)
Plaintiff)
v.) Case No. PJM 08 cv 0921
)
)
WORLD AVENUE USA, LLC, et al.)
)
)
Defendants.)
)

**WORLD AVENUE USA, LLC'S SURREPLY TO PLAINTIFF'S REPLY IN SUPPORT
OF ITS MOTION TO CORRECT MISNOMER AT DE 459**

**I. The Court Should Ignore Plaintiff's Speculative Interpretation of the
Communication Between Counsel**

Plaintiff, Beyond Systems, Inc. ("BSI") attached to its Reply in Support of Motion to Correct Misnomer [DE 526] an inadvertently disclosed communication between WAUSA's counsel. DE 526 at pp. 1-2. Plaintiff alleges that "this email as confirming the intent of the defense team to rely on the absence to "TheUseful, LLC" as a named defendant as a basis for asserting a limitation defense to the amended complaint." *Id.* at p. 2. As the Declaration of Sanford M. Saunders, Jr., the sender of the email demonstrates, the email had nothing to do with the issue of the statute of limitations defense. *See* Saunders Declaration, attached hereto as Exhibit A. This argument was not raised in WAUSA's limited Opposition to the filing of the Second Amended Complaint. *Id.* at ¶ 4. Instead, Mr. Saunders' point went to BSI having no business taking a deposition of Dale Baker when the scope of the BSI's claims were not yet established due to the pendency of an amended pleading. *Id.* at ¶ 4. WAUSA's counsel explained this issue in a later e-mail on April 19th. *Id.*

WHEREFORE, WORLD AVENUE USA, LLC respectfully requests the Court ignore Plaintiff's speculative interpretation of the attached email and instead consider the true meaning of the said conversation as explained by the Saunders Declaration.

Dated: November 26, 2010

Respectfully submitted,

Attorneys for World Avenue USA, LLC

/s/

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